

Third, the Division's response to the petition referred to a telephone conversation on January 6, 1983, between Mr. Nelson and Denver counsel. During this conversation, counsel allegedly was reminded of the January 20 hearing date.

The defendants did not directly respond to this allegation. Instead, they contended in their answer to the Division's response that such a statement was "irrelevant to the issue of whether the Hearing should be reopened, so long as Colorado counsel believed, with good reason, that the hearing had been continued" (Defendants' Answer to the Response of the Division, p. 2).

If counsel was told on January 6 that the hearing was still scheduled for January 20, then obviously he did not have good reason to believe that the hearing had been changed. It appears to us that this telephone conversation, a factor so potentially damaging to the

defendants' position, should have been directly addressed in their answer.

Conclusion

Based on the record, it is quite apparent that Blinder, Robinson and its agents committed numerous acts made unlawful by the Virginia Securities Act. Since much of the evidence presented by the Division was based on information supplied by the Company, it is difficult to imagine that the defendants would seek to impugn it or to deny it. Nevertheless, they had the opportunity to have their "day in court", but failed to take advantage of it. Although we appreciate the defendants' desire to have a second opportunity to present evidence, "another bite at the apple", we have been given no credible reason why justice requires it or why the denial thereof is an abuse of our discretion.

SHANNON, Chairman, concurs.

BRADSHAW, Commissioner, did not participate in the hearing or decision of these cases.

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Respectfully Submitted,

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